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PLEASE PAY PROMPTLY THE AMOUNT STATED BELOW AND RETURN THIS COPY WITH YOUR REMITTANCE.

Eric P. Newman, Esq.
400 Washington Avenue
P. O. Box 14020
St. Louis, Missouri 63178

NOV 15 1967

Dear Mr. Newman:

Search Fee Payable: $5.00

This report is submitted in reply to your request of

November 7, 1967

The copyright statute (Title 17, U.S. Code) requires that this Office make a charge of $5 for each hour of time consumed in searching its records. Please forward the remittance in the amount shown above, payable to the Register of Copyrights.

When sending the fee, it is important that you refer to our MISCELLANEOUS FILE and the date of this letter.

Sincerely yours,

REGISTER OF COPYRIGHTS

Our report is ~~as follows~~ attached:

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VIA AIR MAIL

Search Report: Fee Due
(Nov. 1965-5000)

SEARCH REPORT

Search in the Copyright Office Card Catalog covering the period 1955 through June 16, 1967 and supplementary temporary indexes to the extent available under the name John J. Ford, Jr., and the title THE FRANKLIN HOARD OF UNITED STATES ASSAY OFFICE OF GOLD COINS failed to disclose any separate registration for a work identified under this name and specific title.

-oOo-

Copy for Paul E. Garland

GARLAND - RYAN

ARBITRATION DECISION

This arbitration relates to a proceeding between Paul E. Garland, as Complainant, against Thomas Ryan, as Defendant, to set aside the sale in 1963 of an alleged "Proof" $20 1853 U.S. Assay Office 900 fine gold coin. The arbitration was based on a procedure adopted by the Professional Numismatists Guild for disposing of differences involving any of its members. Leo A. Young, P.N.G. President, at the time of the complaint put into motion the forming of this Arbitration Panel. Ryan, being a P.N.G. member, agreed to the arbitration and appointed Lester Merkin as one arbitrator. Garland agreed to the arbitration and appointed Ronnie Carr as another arbitrator. The third arbitrator, Herbert M. Bergen, was appointed by Ronnie Carr and Lester Merkin.

The first hearing of this case was held in Chicago on August 19, 1966, with numerous persons in attendance. Both Garland and Ryan testified before the arbitrators, as did several other witnesses. Further hearings were held in Los Angeles in February 1967, and in Miami Beach on August 11, 1967. Further testimony was presented over a period of eighteen months. The matters involved are quite complex and technical and for that reason a substantial period of time was given to the parties to allow them to submit evidence.

At the hearing in Chicago it was established that the coin in question was acquired by Ryan in a chain of title back to John J. Ford, Jr., and that Ford obtained the piece from Paul Franklin in 1958. It was also claimed

Trial in lead of reverse of US Assay, Aug 1853

10 sided smaller
trial

Wt 433 gr.
diff in wt.

Sp gr 11.25
Alloy lead
Slant

Star head
Raised rim
with spring
from inner border
to 10 sided panel
reverse

Trial on
actual coin

Long tine broken
vertically to the
edge

Dent below F in
CALIFORNIA on panel
border sloping down
to right

Seal from Kagins

this is from the
forged die

the target back is
a machined forgery
of nothing.

Present at Aug Miami
hearing.

Will you take a polygraph test as to whether you knowing have US 406 coins are forgeries.
Will you sign this test
Someone "disappeared"
Why not disclosed.
Bar with US 406

Who submitted data to US Mint Book
Dear on Red Book

Who is name of Humbert Associate
(whose family had US 406)

How many pieces do you own from Humbert Assoc Source. What are they

How many pieces have you sold or participated in the sale. What are they. To whom.

Did you assist Leo Tay in applying for Federal licence to hold gold bar. Did you sign anything or give testimony

John Ford Copyrighted it in 1967

Check

Expert witness

Franklin supposed working at Polaroid
trips for 2 + 3 weeks vacation

third page of letter
not sent me in evidence

p 8 friends with Franklin

Kenneth N. Lynn
between Fall River Band + Joe, Arizona

p 10 Franklin so [illegible]
Proofing [illegible] to be [illegible]

13
p 14 Franklin sold to others,
"For said he was the delight to
such a sale,"

p 15 He didn't even check the
content of the leaves of the
book. Have sold to Franklin

p 42 Franklin mentions,
pieces were experimental

Possibility - that prostitute coins Franklin disposed of could have been ~~[illegible]~~ normal ~~experimental~~ fineness

Franklin's theory before testing was experimental coin

Why were not Franklin's two first presses tested at M.I.T.

AMERICAN NUMISMATIC ASSOCIATION

Chartered by Congress

May 30, 1968

Daniel W. Brown,
President of P. N. G.
1832 Broadway
Denver, Colorado 80202

Dear Dan:

After much serious thought as a long time member and supporter of the P.N.G., I have decided that I cannot in good conscience continue to be a member in view of the organizations lack of action with regard to the Paul Garland-Tommy Ryan matter.

I am aware of the decision of the committee with regard to the item in question not being a "proof". I certainly am in agreement that the item is not a proof, but I personally feel that the matter goes much deeper than this. I think that the committee to have done any good at all was bound and determined to state whether or not the coin itself was a genuine piece, and that this matter was side stepped. In addition, I think the P.N.G. and the A.N.A also should have carried the matter further, and had all necessary tests made to determine such authenticity.

I think that time will tell whether or not I am justified in this action in support of Mr. Garland.

I think that the P.N.G. should see that Mr. Garland's money is refunded to him also.

This action on my part bodes no ill will toward you personally or most of the other fine members of this organization, the largest part of whom I am happy to call good friends.

Please consider my resignation effective immediately.

Yours very truly,

Grover C. Criswell

Copy

GCC*hs

If Walter Breen testifies he might be asked the following questions:

1. Have you worked for New Netherlands Coin Company on special projects, for compensation, ~~and is it reasonable that you would expect to be so employed in the future?~~ Did you do work on the last sale catalogue of June 13-15, 1967

2. Do you know Paul Franklin?

3. Do you know if Paul Franklin is a metallurgist, or machinist, or both?

4. Were you ever told by anyone that he was a metallurgist? etc.

5. Were you ever told any of this information by John Ford?

6. Do you know anything about the persons, the place, the financial transactions, or the nature of the source of the coins alleged to have come from the Humbert Associate source?

How many are known? Is a unique variety for a genuine Columbia gold piece. Was it ever reported as new variety.

7663.08
15,3-6.16

10/30/68

Olin E. Teague
from Texas

Lum - Texas Sun
1946

10 or 12 years ago Confederate Gold Bar
was shown by Ford to Kenneth Criswell

About 13 or 14 years ago Ford contacted
Kirkeis & buy some war bonds. Criswell
also was going to buy. It was in exchange
Bought ms from Ford for about $1500
and Ford told Criswell to purchase
Savings Bonds in name of Paul Franklin.
Mother & brother of Criswell would remember
May have done at Bank in St. Petersburg.

Ford told Criswell that Franklin was a
metallurgical Engineer.
Both Dan Brown & Max Schwartz tried to
get Criswell to introduce his new gold
from PNG.

Will write Teague

Since 1928
HOLLINBECK KAGIN COIN COMPANY
Suite 400-412
Royal Union Bldg
Des Moines 9 Iowa
Phone 244-3179
Area Code 515

February 7, 1969

Mr. Eric P. Newman
6450 Cecil Avenue
St. Louis, Mo. 63105

Title to Merchandise Does Not Pass Until Same is Paid For

U. S. Assay $20.00 Trial Piece

As soon as I can get the time to dig out the other's, I will send them.

Thanks for your report on 07-R-N.

Sincerely,

Paul

Paul Kagin

PK:nm

THE DEPARTMENT OF THE TREASURY

DATE 11/20/73

TO Mr. Newman

Eric: I'm sure you thought I had forgotten our discussion re the freedom of information act and my promise to send you a copy, but here it is. I do apologize to you for the delay.

You will note that the particular provision dealing with the release of information to the public is section 552 (marked). The broad definition of "agency" used in the statute appears to include the ARBC or the proposed ARBA within the provisions of the Act, so I am told by our legal counsel.

Again, I'm sorry for being so long in responding to your request.

All good wishes.

Roy

Roy C. Cahoon
Assistant Director of the Mint
for Public Services

Bureau of the Mint

Room 1422

Ext. 5011

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 25–104, 25–104a, 29–935, 29–1093, 31–1301, 31–1402, 33–422, 35–501, 36–122, 36–437, 40–603, 40–715, 40–809, 45–702, 45–703, 45–1403, 45–1606, 47–113a, 47–2344a, 47–2402, and 47–2809 of the District of Columbia Code.

Chapter 5.—ADMINISTRATIVE PROCEDURE

SUBCHAPTER I.—GENERAL PROVISIONS

Sec.
500. Administrative practice; general provisions.
501. Advertising practice; restrictions.
502. Administrative practice; Reserves and National Guardsmen.
503. Witness fees and allowances.

SUBCHAPTER II.—ADMINISTRATIVE PROCEDURE

551. Definitions.
552. Public information; agency rules, opinions, orders, records, and proceedings.
553. Rule making.
554. Adjudications.
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556. Hearings; presiding employees; powers and duties; burden of proof; evidence; record as basis of decision.
557. Initial decisions; conclusiveness; review by agency; submissions by parties; contents of decisions; record.
558. Imposition of sanctions; determination of applications for licenses; suspension, revocation, and expiration of licenses.
559. Effect on other laws; effect of subsequent statute.

SUBCHAPTER III.—ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

571. Purpose.
572. Definitions.
573. Administrative Conference of the United States.
574. Powers and duties of the Conference.
575. Organization of the Conference.
576. Appropriations.

AMENDMENTS

1967—Pub. L. 90–83, § 1(1)(B), Sept. 11, 1967, 81 Stat. 195, added item 500.

Pub. L. 90–23, § 2, June 5, 1967, 81 Stat. 56, substituted "Public information; agency rules, opinions, orders, records and proceedings" for "Publication of information, rules, opinions, orders, and public records" in item 552.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 8902 of this title and in title 12 sections 1464, 1730, 1730a, 1786, 1818; title 15 section 687c; title 39 sections 204, 410, 3001, 3603; title 49 section 1655.

SUBCHAPTER I.—GENERAL PROVISIONS

§ 500. Administrative practice; general provisions.

(a) For the purpose of this section—

(1) "agency" has the meaning given it by section 551 of this title; and

(2) "State" means a State, a territory or possession of the United States including a Commonwealth, or the District of Columbia.

(b) An individual who is a member in good standing of the bar of the highest court of a State may represent a person before an agency on filing with the agency a written declaration that he is currently qualified as provided by this subsection and is authorized to represent the particular person in whose behalf he acts.

(c) An individual who is duly qualified to practice as a certified public accountant in a State may represent a person before the Internal Revenue Service of the Treasury Department on filing with that agency a written declaration that he is currently qualified as provided by this subsection and is authorized to represent the particular person in whose behalf he acts.

(d) This section does not—

(1) grant or deny to an individual who is not qualified as provided by subsection (b) or (c) of this section the right to appear for or represent a person before an agency or in an agency proceeding;

(2) authorize or limit the discipline, including disbarment, of individuals who appear in a representative capacity before an agency;

(3) authorize an individual who is a former employee of an agency to represent a person before an agency when the representation is prohibited by statute or regulation; or

(4) prevent an agency from requiring a power of attorney as a condition to the settlement of a controversy involving the payment of money.

(e) Subsections (b)—(d) of this section do not apply to practice before the Patent Office with respect to patent matters that continue to be covered by chapter 3 (sections 31—33) of title 35.

(f) When a participant in a matter before an agency is represented by an individual qualified under subsection (b) or (c) of this section, a notice or other written communication required or permitted to be given the participant in the matter shall be given to the representative in addition to any other service specifically required by statute. When a participant is represented by more than one such qualified representative, service on any one of the representatives is sufficient. (Added Pub. L. 90–83, § 1(1)(A), Sept. 11, 1967, 81 Stat. 195.)

HISTORICAL AND REVISION NOTES

Section of title 5	Source (U.S. Code)	Source (Statutes at Large)
500(a)	5 App.: 1014	Nov. 8, 1965, Pub. L. 89–332, § 3, 79 Stat. 1281.
500(b)—(e)	5 App.: 1012	Nov. 8, 1965, Pub. L. 89–332, § 1, 79 Stat. 1281.
500(f)	5 App.: 1013	Nov. 8, 1965, Pub. L. 89–332, § 2, 79 Stat. 1281.

The definition of "State" in subsection (a)(2) is supplied for convenience and is based on the words "State, possession, territory, Commonwealth, or District of Columbia" in subsections (a) and (b) of 5 App. U.S.C. 1012.

In subsection (d), the words "This section does not" are substituted for "nothing herein shall be construed".

In subsection (d)(3), the word "employee" is substituted for "officer or employee" to conform to the definition of "employee" in 5 U.S.C. 2105.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 38 section 3401.

§ 501. Advertising practice; restrictions.

An individual, firm, or corporation practicing before an agency of the United States may not use the name of a Member of either House of Congress or of an individual in the service of the United States in advertising the business. (Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 381.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
----	5 U.S.C. 101	Apr. 27, 1916, ch. 89, § 1, 39 Stat. 54.

The words "may not" are substituted for "It shall be unlawful for". The words "agency of the United States" are substituted for "any department or office of the Government". The words "an individual in the service of the United States" are substituted for "officer of the Government" in view of the definitions in sections 2104 and 2105.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 502. Administrative practice; Reserves and National Guardsmen.

Membership in a reserve component of the armed forces or in the National Guard does not prevent an individual from practicing his civilian profession or occupation before, or in connection with, an agency of the United States. (Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 381.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
----	5 U.S.C. 30r (2d sentence).	Aug. 10, 1956, ch. 10A1, § 29(c) (2d sentence), 70A Stat. 632.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 503. Witness fees and allowances.

(a) For the purpose of this section, "agency" has the meaning given it by section 5721 of this title.

(b) A witness is entitled to the fees and allowances allowed by statute for witnesses in the courts of the United States when—

(1) he is subpenaed under section 304(a) of this title; or

(2) he is subpenaed to and appears at a hearing before an agency authorized by law to hold hearings and subpena witnesses to attend the hearings.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 381.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
----	5 U.S.C. 95	R.S. § 185.
----	5 U.S.C. 95a	Aug. 2, 1946, ch. 744, § 10, 60 Stat. 809.

Former sections 95 and 95a are combined and restated for clarity and brevity. The words "or expenses in the case of Government officers and employees" are omitted as covered by section 1823 of title 28. The word "agency" is substituted for "department" and defined to conform to the definition of "department" in section 18 of the Act of Aug. 2, 1946, ch. 744, 60 Stat. 811.

This section was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, § 201(d), as added Aug. 10, 1949, ch. 412, § 4, 63 Stat. 579 (former 5 U.S.C. 171–1), which provides "Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense" is omitted from this title but is not repealed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SUBCHAPTER II.—ADMINISTRATIVE PROCEDURE

POPULAR NAME

The provisions of this subchapter and chapter 7 of this title were originally enacted by act June 11, 1946, ch. 324, 60 Stat. 237, popularly known as the "Administrative Procedure Act". That Act was repealed as part of the general revision of this title by Pub. L. 89–554 and its provisions incorporated into this subchapter and chapter 7 hereof.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 556, 559, 572, 8902 of this title; title 10 section 2680; title 12 section 1959; title 15 section 78ggg; title 25 section 372–1; title 28 section 509; title 29 section 628; title 33 section 1162; title 39 section 3008; title 42 section 263f; title 49 section 1672.

§ 551. Definitions.

For the purpose of this subchapter—

(1) "agency" means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—

(A) the Congress;

(B) the courts of the United States;

(C) the governments of the territories or possessions of the United States;

(D) the government of the District of Columbia;

or except as to the requirements of section 552 of this title—

(E) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them;

(F) courts martial and military commissions;

(G) military authority exercised in the field in time of war or in occupied territory; or

(H) functions conferred by sections 1738, 1739, 1743, and 1744 of title 12; chapter 2 of title 41; or sections 1622, 1884, 1891–1902, and former section 1641(b)(2), of title 50, appendix;

(2) "person" includes an individual, partnership, corporation, association, or public or private organization other than an agency;

(3) "party" includes a person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in an agency proceeding, and a person or agency admitted by an agency as a party for limited purposes;

(4) "rule" means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency and includes the approval or prescription for the future of rates, wages, corporate of financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor or of valuations, costs, or accounting, or practices bearing on any of the foregoing;

(5) "rule making" means agency process for formulating, amending, or repealing a rule;

(6) "order" means the whole or a part of a final disposition, whether affirmative, negative, injunctive, or declaratory in form, of an agency in a matter other than rule making but including licensing;

(7) "adjudication" means agency process for the formulation of an order;

(8) "license" includes the whole or a part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption or other form of permission;

(9) "licensing" includes agency process respecting the grant, renewal, denial, revocation, suspension, annulment, withdrawal, limitation, amendment, modification, or conditioning of a license;

(10) "Sanction" includes the whole or a part of an agency—

(A) prohibition, requirement, limitation, or other condition affecting the freedom of a person;

(B) withholding of relief;

(C) imposition of penalty or fine;

(D) destruction, taking, seizure, or withholding of property;

(E) assessment of damages, reimbursement, restitution, compensation, costs, charges, or fees;

(F) requirement, revocation, or suspension of a license; or

(G) taking other compulsory or restrictive action;

(11) "relief" includes the whole or a part of an agency—

(A) grant of money, assistance, license, authority, exemption, exception, privilege, or remedy;

(B) recognition of a claim, right, immunity, privilege, exemption, or exception; or

(C) taking of other action on the application or petition of, and beneficial to, a person;

(12) "agency proceeding" means an agency process as defined by paragraphs (5), (7), and (9) of this section; and

(13) "agency action" includes the whole or a part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 381.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(1)	5 U.S.C. 1001 (a)	June 11, 1946, ch. 324, § 2(a), 60 Stat. 237. Aug. 8, 1946, ch. 870, § 302, 60 Stat. 918. Aug. 10, 1946, ch. 951, § 601, 60 Stat. 993. Mar. 31, 1947, ch. 30, § 6(a), 61 Stat. 37. June 30, 1947, ch. 163, § 210, 61 Stat. 201. Mar. 30, 1948, ch. 161, § 301, 62 Stat. 99.
(2)–(13)	5 U.S.C. 1001 (less (a))	June 11, 1946, ch. 324, § 2 (less (a)), 60 Stat. 237.

In paragraph (1), the sentence "Nothing in this Act shall be construed to repeal delegations of authority as provided by law." is omitted as surplusage since there is nothing in the Act which could reasonably be so construed.

In paragraph (1)(G), the words "or naval" are omitted as included in "military".

In paragraph (1)(H), the words "functions which by law expire on the termination of present hostilities, within any fixed period thereafter, or before July 1, 1947" are omitted as executed. Reference to the "Selective Training and Service Act of 1940" is omitted as that Act expired Mar. 31, 1947. Reference to the "Sugar Control Extension Act of 1947" is omitted as that Act expired on Mar. 31, 1948. References to the "Housing and Rent Act of 1947, as amended" and the "Veterans' Emergency Housing Act of 1946" have been consolidated as they are related. The reference to former section 1641(b)(2) of title 50, appendix, is retained notwithstanding its repeal by § 111(a)(1) of the Act of Sept. 21, 1961, Pub. L. 87–256, 75 Stat. 538, since § 111(c) of the Act provides that a reference in other Acts to a provision of law repealed by § 111(a) shall be considered to be a reference to the appropriate provisions of Pub. L. 87–256.

In paragraph (2), the words "of any character" are omitted as surplusage.

In paragraph (3), the words "and a person or agency admitted by an agency as a party for limited purposes" are substituted for "but nothing herein shall be construed to prevent an agency from admitting any person or agency as a party for limited purposes".

In paragraph (9), a comma is supplied between the words "limitation" and "amendment" to correct an editorial error of omission.

In paragraph (10)(C), the words "of any form" are omitted as surplusage.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CROSS REFERENCES

Administrative Procedure Act, Applicability to Age Discrimination in Employment Act of 1967, issuance of rules and regulations and establishment of exemptions, see section 628 of Title 29, Labor.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 500, 572, 701, 3344 of this title; title 15 section 1193; title 30 section 956.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 11–742(11) of the District of Columbia Code.

§ 552. Public information; agency rules, opinions, orders, records, and proceedings.

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public—

(A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying—

(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register; and

(C) administrative staff manuals and instructions to staff that affect a member of the public;

unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each case the justification for the deletion shall be explained fully in writing. Each agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if—

(i) it has been indexed and either made available or published as provided by this paragraph; or

(ii) the party has actual and timely notice of the terms thereof.

(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, on request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed, shall make the records promptly available to any person. On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complaint. In such a case the court shall determine the matter de novo and the burden is on the agency to sustain its action. In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member. Except as to causes the court considers of greater importance, proceedings before the district court, as authorized by this paragraph, take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

(4) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(b) This section does not apply to matters that are—

(1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;

(2) related solely to the internal personnel rules and practices of an agency;

(3) specifically exempted from disclosure by statute;

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;

(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) geological and geophysical information and data, including maps, concerning wells.

(c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress. (Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 383; Pub. L. 90–23, § 1, June 5, 1967, 81 Stat. 54.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
----	5 U.S.C. 1002	June 11, 1946, ch. 324, § 3, 60 Stat. 238.

In subsection (b)(3), the words "formulated and" are omitted as surplusage. In the last sentence of subsection (b), the words "in any manner" are omitted as surplusage since the prohibition is all inclusive.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90–23 substituted the introductory statement requiring every agency to make available to the public certain information for former introductory provision excepting from disclosure (1) any function of the United States requiring secrecy in the public interest or (2) any matter relating to internal management of an agency, now covered in subsec. (b) (1) and (2) of this section.

Subsec. (a)(1). Pub. L. 90–23 incorporated provisions of former subsec. (b)(1) in (A), inserting requirement of publication of names of officers as sources of information and provision for public to obtain decisions, and deleting publication requirement for delegations by the agency of final authority; former subsec. (b)(2), introductory part, in (B); former subsec. (b)(2), concluding part, in (C), inserting publication requirement for rules of procedure and descriptions of forms available or the places at which forms may be obtained; former subsec. (b)(3), introductory part, in (D), inserting requirement of general applicability of substantive rules and interpretations, added clause (E), substituted exemption of any person from failure to resort to any matter or from being adversely affected by any matter required to be published in the

Federal Register but not so published for former subsec. (b)(3), concluding part, excepting from publication rules addressed to and served upon named persons in accordance with law and final sentence reading "A person may not be required to resort to organization or procedure not so published" and added provision deeming matter, which is reasonably available, as published in the Federal Register when such matter is incorporated by reference in the Federal Register with the approval of its Director.

Subsec. (a)(2), Pub. L. 90–23 incorporated provisions of former subsec. (c), provided for public copying of records, eliminated requirement of agency publication of final opinions or orders and authority for secrecy and withholding of opinions and orders required for good cause to be held confidential and not cited as precedents, latter provision now superseded by subsec. (b) of this section, designated existing subsec. (c) as clause (A), including therein provision for availability of concurring and dissenting opinions, added provisions for availability of policy statements and interpretations in clause (B) and staff manuals and instructions in clause (C), deletion of personal identifications from records to protect personal privacy with written justification therefor, and provision for indexing and prohibition of use of records not indexed against any private party without actual and timely notice of the terms thereof.

Subsec. (a)(3), Pub. L. 90–23 incorporated provisions of former subsec. (d) and substituted provisions requiring identifiable agency records to be made available to any person upon request and compliance with rules as to time, place, and procedure for inspection, and payment of fees and provisions for federal district court proceedings de novo for enforcement by contempt of noncompliance with court's orders with the burden on the agency and docket precedence for such proceedings for former provisions requiring matters of official record to be made available to persons properly and directly concerned except information held confidential for good cause shown, the latter provision now superseded by subsec. (b) of this section.

Subsec. (a)(4), Pub. L. 90–23 added subsec. (a)(4).

Subsec. (b), Pub. L. 90–23 added subsec. (b) which superseded provisions excepting from disclosure any function of the United States requiring secrecy in the public interest or any matter relating to internal management of an agency, formerly contained in former subsec. (a), final opinions or orders required for good cause to be held confidential and not cited as precedents, formerly contained in subsec. (c), and information held confidential for good cause found, contained in former subsec. (d) of this section.

Subsec. (c), Pub. L. 90–23 added subsec. (c).

EFFECTIVE DATE OF 1967 AMENDMENT

Section 4 of Pub. L. 90–23 provided that: "This Act [amending this section] shall be effective July 4, 1967, or on the date of enactment [June 5, 1967], whichever is later."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 551 of this title; title 15 section 1193; title 42 section 4332.

§ 553. Rule making.

(a) This section applies, according to the provisions thereof, except to the extent that there is involved—

(1) a military or foreign affairs function of the United States; or

(2) a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.

(b) General notice of proposed rule making shall be published in the Federal Register, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include—

(1) a statement of the time, place, and nature of public rule making proceedings;

(2) reference to the legal authority under which the rule is proposed; and

(3) either the terms of substance of the proposed rule or a description of the subjects and issues involved.

Except when notice or hearing is required by statute, this subsection does not apply—

(A) to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice; or

(B) when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

(c) After notice required by this section, the agency shall give interested persons an opportunity to participate in the ruling making through submission of written data, views, or arguments with or without opportunity for oral presentation. After consideration of the relevant matter presented, the agency shall incorporate in the rules adopted a concise general statement of their basis and purpose. When rules are required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.

(d) The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except—

(1) a substantive rule which grants or recognizes an exemption or relieves a restriction;

(2) interpretative rules and statements of policy; or

(3) as otherwise provided by the agency for good cause found and published with the rule.

(e) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule. (Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 383.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
----	5 U.S.C. 1003	June 11, 1946, ch. 324, § 4, 60 Stat. 238.

In subsection (a)(1), the words "or naval" are omitted as included in "military".

In subsection (b), the word "when" is substituted for "in any situation in which".

In subsection (c), the words "for oral presentation" are substituted for "to present the same orally in any manner". The words "sections 556 and 557 of this title apply instead of this subsection" are substituted for "the requirements of sections 1006 and 1007 of this title shall apply in place of the provisions of this subsection".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 556 of this title; title 15 sections 78ggg; 1193, 1202; title 16 section 668c–3; title 21 sections 358, 463; title 30 sections 861, 936; title 40 section 333.

The source of this section is referred to in title 7 section 1116.

§ 554. Adjudications.

(a) This section applies, according to the provisions thereof, in every case of adjudication required

by statute to be determined on the record after opportunity for an agency hearing, except to the extent that there is involved—

(1) a matter subject to a subsequent trial of the law and the facts de novo in a court;

(2) the selection or tenure of an employee, except a hearing examiner appointed under section 3105 of this title;

(3) proceedings in which decisions rest solely on inspections, tests, or elections;

(4) the conduct of military or foreign affairs functions;

(5) cases in which an agency is acting as an agent for a court; or

(6) the certification of worker representatives.

(b) Persons entitled to notice of an agency hearing shall be timely informed of—

(1) the time, place, and nature of the hearings.

(2) the legal authority and jurisdiction under which the hearing is to be held; and

(3) the matters of fact and law asserted.

When private persons are the moving parties, other parties to the proceeding shall give prompt notice of issues controverted in fact or law; and in other instances agencies may by rule require responsive pleading. In fixing the time and place for hearings, due regard shall be had for the convenience and necessity of the parties or their representatives.

(c) The agency shall give all interested parties opportunity for—

(1) the submission and consideration of facts, arguments, offers of settlement, or proposals of adjustment when time, the nature of the proceeding, and the public interest permit; and

(2) to the extent that the parties are unable so to determine a controversy by consent, hearing and decision on notice and in accordance with sections 556 and 557 of this title.

(d) The employee who presides at the reception of evidence pursuant to section 556 of this title shall make the recommended decision or initial decision required by section 557 of this title, unless he becomes unavailable to the agency. Except to the extent required for the disposition of ex parte matters as authorized by law, such an employee may not—

(1) consult a person or party on a fact in issue, unless on notice and opportunity for all parties to participate; or

(2) be responsible to or subject to the supervision or direction of an employee or agent engaged in the performance of investigative or prosecuting functions for an agency.

An employee or agent engaged in the performance of investigative or prosecuting functions for an agency in a case may not, in that or a factually related case, participate or advise in the decision, recommended decision, or agency review pursuant to section 557 of this title, except as witness or counsel in public proceedings. This subsection does not apply—

(A) in determining applications for initial licenses;

(B) to proceedings involving the validity or application of rates, facilities, or practices of public utilities or carriers; or

(C) to the agency or a member or members of the body comprising the agency.

(e) The agency, with like effect as in the case of other orders, and in its sound discretion, may issue a declaratory order to terminate a controversy or remove uncertainty. (Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 384.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
----	5 U.S.C. 1004	June 11, 1946, ch. 324, § 5, 60 Stat. 239.

In subsection (a)(2), the word "employee" is substituted for "officer or employee of the United States" in view of the definition of "employee" in section 2105.

In subsection (a)(4), the word "naval" is omitted as included in "military".

In subsection (a)(5), the word "or" is substituted for "and" since the exception is applicable if any one of the factors are involved.

In subsection (a)(6), the word "worker" is substituted for "employee", since the latter is defined in section 2105 as meaning Federal employees.

In subsection (b), the word "When" is substituted for "In instances in which".

In subsection (c)(2), the comma after the word "hearing" is omitted to correct an editorial error.

In subsection (d), the words "The employee" and "such an employee" are substituted in the first two sentences for "The same officers" and "such officers" in view of the definition of "employee" in section 2105. The word "officer" is omitted in the third and fouth sentences as included in "employee" as defined in section 2105. The prohibition in the third and fourth sentences is restated in positive form. In paragraph (C) of the last sentence, the words "in any manner" are omitted as surplusage.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 556, 557, 8124 of this title; title 7 section 87e; title 15 section 1193; title 30 sections 804, 814, 815, 818, 819, 820, 861.

§ 555. Ancillary matters.

(a) This section applies, according to the provisions thereof, except as otherwise provided by this subchapter.

(b) A person compelled to appear in person before an agency or representative thereof is entitled to be accompanied, represented, and advised by counsel or, if permitted by the agency, by other qualified representative. A party is entitled to appear in person or by or with counsel or other duly qualified representative in an agency proceeding. So far as the orderly conduct of public business permits, an interested person may appear before an agency or its responsible employees for the presentation, adjustment, or determination of an issue, request, or controversy in a proceeding, whether interlocutory, summary, or otherwise, or in connection with an agency function. With due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it. This subsection does not grant or deny a person who is not a lawyer the right to appear for or represent others before an agency or in an agency proceeding.

(c) Process, requirement of a report, inspection, or other investigative act or demand may not be issued, made, or enforced except as authorized by law. A person compelled to submit data or evidence is entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that in a nonpublic investigatory proceeding the witness may for good cause be limited to inspection of the official transcript of his testimony.

(d) Agency subpenas authorized by law shall be issued to a party on request and, when required by rules of procedure, on a statement or showing of general relevance and reasonable scope of the evidence sought. On contest, the court shall sustain the subpena or similar process or demand to the extent that it is found to be in accordance with law. In a proceeding for enforcement, the court shall issue an order requiring the appearance of the witness or the production of the evidence or data within a reasonable time under penalty of punishment for contempt in case of contumacious failure to comply.

(e) Prompt notice shall be given of the denial in whole or in part of a written application, petition, or other request of an interested person made in connection with any agency proceedings. Except in affirming a prior denial or when the denial is self-explanatory, the notice shall be accompanied by a brief statement of the grounds for denial. (Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 385.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
----	5 U.S.C. 1005	June 11, 1946, ch. 324, § 6, 60 Stat. 240.

In subsection (b), the words "is entitled" are substituted for "shall be accorded the right". The word "officers" is omitted as included in "employees" in view of the definition of "employee" in section 2105. The words "With due regard for the convenience and necessity of the parties or their representatives and within a reasonable time" are substituted for "with reasonable dispatch" and "except that due regard shall be had for the convenience and necessity of the parties or their representatives". The prohibition in the last sentence is restated in positive form and the words "This subsection does not" are substituted for "Nothing herein shall be construed either to".

In subsection (c), the words "in any manner or for any purpose" are omitted as surplusage.

In subsection (e), the word "brief" is substituted for "simple". The words "of the grounds for denial" are substituted for "of procedural or other grounds" for clarity.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 1193.

§ 556. Hearings; presiding employees; powers and duties; burden of proof; evidence; record as basis of decision.

(a) This section applies, according to the provisions thereof, to hearings required by section 553 or 554 of this title to be conducted in accordance with this section.

(b) There shall preside at the taking of evidence—

(1) the agency;

(2) one or more members of the body which comprises the agency; or

(3) one or more hearing examiners appointed under section 3105 of this title.

This subchapter does not supersede the conduct of specified classes of proceedings, in whole or in part, by or before boards or other employees specially provided for by or designated under statute. The functions of presiding employees and of employees participating in decisions in accordance with section 557 of this title shall be conducted in an impartial manner. A presiding or participating employee may at any time disqualify himself. On the filing in good faith of a timely and sufficient affidavit of personal bias or other disqualification of a presiding or participating employee, the agency shall determine the matter as a part of the record and decision in the case.

(c) Subject to published rules of the agency and within its powers, employees presiding at hearings may—

(1) administer oaths and affirmations;

(2) issue subpenas authorized by law;

(3) rule on offers of proof and receive relevant evidence;

(4) take depositions or have depositions taken when the ends of justice would be served;

(5) regulate the course of the hearing;

(6) hold conferences for the settlement or simplification of the issues by consent of the parties;

(7) dispose of procedural requests or similar matters;

(8) make or recommend decisions in accordance with section 557 of this title; and

(9) take other action authorized by agency rule consistent with this subchapter.

(d) Except as otherwise provided by statute, the proponent of a rule or order has the burden of proof. Any oral or documentary evidence may be received, but the agency as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. A sanction may not be imposed or rule or order issued except on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with the reliable, probative, and substantial evidence. A party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. In rule making or determining claims for money or benefits or applications for initial licenses an agency may, when a party will not be prejudiced thereby, adopt procedures for the submission of all or part of the evidence in written form.

(e) The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, constitutes the exclusive record for decision in accordance with section 557 of this title and, on payment of lawfully prescribed costs, shall be made available to the parties. When an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary. (Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 386.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
----	5 U.S.C. 1006	June 11, 1946, ch. 324, § 7, 60 Stat. 241.

In subsection (b), the words "hearing examiners" are substituted for "examiners" in paragraph (3) for clarity. The prohibition in the second sentence is restated in positive form and the words "This subchapter does not" are substituted for "but nothing in this chapter shall be deemed to". The words "employee" and "employees" are substituted for "officer" and "officers" in view of the definition of "employee" in section 2105. The sentence "A presiding or participating employee may at any time disqualify himself." is substituted for the words "Any such officer may at any time withdraw if he deems himself disqualified."

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF COMMERCE

Functions vested by this subchapter and chapter 7 of this title in hearing examiners employed by the Department of Commerce were not included in the functions of officers, agencies, and employees of that Department which were transferred to the Secretary of Commerce by 1950 Reorg. Plan No. 5, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, see out in the Appendix to this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF THE INTERIOR

Functions vested by this subchapter and chapter 7 of this title in hearing examiners employed by the Department of the Interior were not included in the transfer of functions of officers, agencies and employees of the Department of the Interior to the Secretary of the Interior, made by 1950 Reorg. Plan No. 3, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF JUSTICE

Functions vested by this subchapter and chapter 7 of this title in hearing examiners employed by the Department of Justice were not included in the transfer of functions of officers, agencies and employees of the Department of Justice to the Attorney General, made by 1950 Reorg. Plan No. 2, § 1, eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261, set out in the Appendix to this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF LABOR

Functions vested by this subchapter and chapter 7 of this title in hearing examiners employed by the Department of Labor were not included in the transfer of functions of officers, agencies, and employees of the Department of Labor to the Secretary of Labor, made by 1950 Reorg. Plan No. 6, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF THE TREASURY

Functions vested by this subchapter and chapter 7 of this title in hearing examiners employed by the Department of the Treasury were not included in the transfer of functions of officers, agencies and employees of the Department of the Treasury to the Secretary of the Treasury, made by 1950 Reorg. Plan. No. 26, § 1, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 553, 554, 557, 558, 706, 3105 of this title; title 7 section 87e; title 15 section 1193; title 39 sections 3624, 3661.

§ 557. Initial decisions; conclusiveness; review by agency; submissions by parties; contents of decisions; record.

(a) This section applies, according to the provisions thereof, when a hearing is required to be conducted in accordance with section 556 of this title.

(b) When the agency did not preside at the reception of the evidence, the presiding employee or, in cases not subject to section 554(d) of this title, an employee qualified to preside at hearings pursuant to section 556 of this title, shall initially decide the case unless the agency requires, either in specific cases or by general rule, the entire record to be certified to it for decision. When the presiding employee makes an initial decision, that decision then becomes the decision of the agency without further proceedings unless there is an appeal to, or review on motion of, the agency within time provided by rule. On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule. When the agency makes the decision without having presided at the reception of the evidence, the presiding employee or an employee qualified to preside at hearings pursuant to section 556 of this title shall first recommend a decision, except that in rule making or determining applications for initial licenses—

(1) instead thereof the agency may issue a tentative decision or one of its responsible employees may recommend a decision; or

(2) this procedure may be omitted in a case in which the agency finds on the record that due and timely execution of its functions imperatively and unavoidably so requires.

(c) Before a recommended, initial, or tentative decision, or a decision on agency review of the decision of subordinate employees, the parties are entitled to a reasonable opportunity to submit for the consideration of the employees participating in the decisions—

(1) proposed findings and conclusions; or

(2) exceptions to the decisions or recommended decisions of subordinate employees or to tentative agency decisions; and

(3) supporting reasons for the exceptions or proposed findings or conclusions.

The record shall show the ruling on each finding, conclusion, or exception presented. All decisions, including initial, recommended, and tentative decisions, are a part of the record and shall include a statement of—

(A) findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record; and

(B) the appropriate rule, order, sanction, relief, or denial thereof.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 387.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
----	5 U.S.C. 1007	June 11, 1946, ch. 324, § 8, 60 Stat. 242.

In subsection (b), the word "employee" is substituted for "officer" and "officers" in view of the definition of "employee" in section 2105. The word "either" is added after the word "requires" in the first sentence to eliminate the need for parentheses. The words "the presiding employee or an employee qualified to preside at hearings under section 556 of this title" are substituted for "such officers" in the last sentence. The word "initial" is omitted before "decision", the final word in the first sentence and the sixth word of the fourth sentence, to avoid confusion between the "initial decision" of the presiding employee and the "initial decision" of the agency.

In subsection (c), the word "employees" is substituted for "officers" in view of the definition of "employee" in section 2105.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 553, 554, 556, 558, 706, 3105 of this title; title 7 section 87e; title 15 section 1193; title 39 sections 3624, 3661.

§ 558. Imposition of sanctions; determination of applications for licenses; suspension, revocation, and expiration of licenses.

(a) This section applies, according to the provisions thereof, to the exercise of a power or authority.

(b) A sanction may not be imposed or a substantive rule or order issued except within jurisdiction delegated to the agency and as authorized by law.

(c) When application is made for a license required by law, the agency, with due regard for the rights and privileges of all the interested parties or adversely affected persons and within a reasonable time, shall set and complete proceedings required to be conducted in accordance with sections 556 and 557 of this title or other proceedings required by law and shall make its decision. Except in cases of willfulness or those in which public health, interest, or safety requires otherwise, the withdrawal, suspension, revocation, or annulment of a license is lawful only if, before the institution of agency proceedings therefor, the licensee has been given—

(1) notice by the agency in writing of the facts or conduct which may warrant the action; and

(2) opportunity to demonstrate or achieve compliance with all lawful requirements.

When the licensee has made timely and sufficient application for a renewal or a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency. (Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 388.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
----	5 U.S.C. 1008	June 11, 1946, ch. 324, § 9, 60 Stat. 242.

In subsection (b), the prohibition is restated in positive form.

In subsection (c), the words "within a reasonable time" are substituted for "with reasonable dispatch". The last two sentences are restated for conciseness and clarity and to restate the prohibition in positive form.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 1193.

§ 559. Effect on other laws; effect of subsequent statute.

This subchapter, chapter 7, and sections 1305, 3105, 3344, 4301(2)(E), 5362, and 7521 of this title, and the provisions of section 5335(a)(B) of this title that relate to hearing examiners, do not limit or repeal additional requirements imposed by statute or otherwise recognized by law. Except as otherwise required by law, requirements or privileges relating to evidence or procedure apply equally to agencies and persons. Each agency is granted the authority necessary to comply with the requirements of this subchapter through the issuance of rules or otherwise. Subsequent statute may not be held to supersede or modify this subchapter, chapter 7, sections 1305, 3105, 3344, 4301(2)(E), 5362, or 7521 of this title, or the provisions of section 5335(a)(B) of this title that relate to hearing examiners, except to the extent that it does so expressly. (Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 388; Pub. L. 90–623, § 1(1), Oct. 22, 1968, 82 Stat. 1312.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
----	5 U.S.C. 1011	June 11, 1946, ch. 324, § 12, 60 Stat. 244.

In the first and last sentences, the words "This subchapter, chapter 7, and sections 1305, 3105, 3344, 4301(2)(E), 5362, and 7521, and the provisions of section 5335(a)(B) of this title that relate to hearing examiners" are substituted for "this Act" to reflect the codification of the Act in this title. The words "to diminish the constitutional rights of any person or" are omitted as surplusage as there is nothing in the Act that can reasonably be construed to diminish those rights and because a statute may not operate in derogation of the Constitution.

The third sentence of former section 1011 is omitted as covered by technical section 7. The sixth sentence of former section 1011 is omitted as executed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1968—Pub. L. 90–623 inserted "of this title" following "7521" wherever appearing.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, [illegible] section 5334 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 1193; title 30 section 956.

SUBCHAPTER III.—ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

§ 571. Purpose.

It is the purpose of this subchapter to provide suitable arrangements through which Federal agencies, assisted by outside experts, may cooperatively study mutual problems, exchange information, and develop recommendations for action by proper authorities to the end that private rights may be fully protected and regulatory activities and other Federal responsibilities may be carried out expeditiously in the public interest. (Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 388.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
----	5 U.S.C. 1045(e)	Aug. 30, 1964, Pub. L. 88–499, § 2(e), 78 Stat. 615.

The words "this subchapter" are substituted for "this Act" to reflect the codification of the Administrative Conference Act in this subchapter.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 572. Definitions.

For the purpose of this subchapter—

(1) "administrative program" includes a Federal function which involves protection of the public interest and the determination of rights, privileges, and obligations of private persons through rule making, adjudication, licensing, or

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March 30, 1974

Mr. Eric P. Newman
6450 Cecil Ave.
St. Louis, MO 63105

Dear Mr. Newman:

Regretfully, I must ask you to return the U.S. Assay $20 piece without removing the wax coating. Our coding indicates that we purchased it direct and not at auction and we would like to contact the former owner before proceeding.

The uniface piece you mentioned, is at the moment, in storage. As I'm sure you must realize, reorganization is complicated at the very least. I would like to be able to wrap up all unfinished business and begin anew. Ideally, I would like to be able to have you study both the Trial Piece in question and the uniface piece.

Until such time, however, the return of the coin will enable me to file this matter in "completed correspondence" instead of our "pending" file and will help to make reorganization that much easier.

Thank you for your patience in this matter.

Sincerely,

Judith Kagin Spector

JKS/kp

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Des Moines, Iowa 50309

Dear Mrs. Spector:

We must assume that the position you take in your letter of March 30, 1974 is well known to Arthur and Don. It seems that the request is being turned down with their approval.

When you comment that your coding indicates that you purchased the two items direct and not at auction, this is information which we have been familiar with. If you plan to return the pieces to the seller after all of these years, please advise us.

Since you feel that both should be studied, you might give us a copy of any report which is made.

The lead piece is returned herewith in accordance with your request.

Very truly yours,

Eric P. Newman

EPN:jah

Encl.

A NON-PROFIT CORPORATION FOR EDUCATION
THROUGH RESEARCH AND EXHIBITION
OF COINS, CURRENCY AND HISTORIC OBJECTS

ERIC P. NEWMAN NUMISMATIC EDUCATION SOCIETY

6450 Cecil Avenue, St. Louis 5, Missouri

April 26, 1974

Mr. James Buck
307 North Pennsylvania Street
Indianapolis, Indiana 46204

Dear Mr. Buck:

I am very appreciative of your kindness in discussing the Josoff-Schulman appraisal of the Lilly coin collection. I was hopeful you can locate a copy for the research work which we are doing and which others are doing. The matter is very important to Numismatics as a whole, in our opinion.

Margo Russell, as I told you, recommended you and told me your coin column in the Indianapolis Star was outstanding.

Sincerely,

Eric P. Newman

EPN:jah

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May 23. 1974

Mr. Lester Merkin
445 Park Avenue
New York, New York

Dear Lester:

Many thanks for yours of the 21st. and the related information.

Herb stated quite rightly in his letter of May 8th. to Eric, "The panel was set up by PNG with instructions for performance given by Leo Young, then President of PNG".

The letter of April 15th. by John Smies to Prof. Buttrey is most peculiar in that Mr. Smies apparently feels our panel was ad hoc in nature and that PNG has no obligation to retain our findings as their material. In his final paragraph he makes a somewhat puzzling remark, "It is my conclusion that we can not give our approval and/or disapproval for access to any alleged file of an arbitration hearing." It is the "alleged" that surprises me. Of course there is a file. We certainly didnot contain all our findings and information in our heads.

After the panel read its decision in Los Angeles in open meeting, I returned all correspondence and relative information to Leo Young in person. At that time I had the feeling the PNG didnot have enough legal power to enforce our ruling and that the matter would undoubtedly be taken to court by either Ryan or Garland. Because of my feeling I thought it best to keep all the photographs and documents I considered to be important in case they were to be used in a legal proceeding in the future. I also retained the Panel's original decision on the Ryan-Garland matter.

It is my personal opinion that our data on the Ryan-Garland arbitration belongs to the PNG since they authorized and financed our panel.

Also I believe that our files contain absolutely nothing beneficial to Eric or Prof. Buttrey. As a matter of fact Eric already has all the information on the case of Ryan-Garland that we possess. I would want to know exactly what data our panel has that could possibly assist Eric in the latest issue of whether or not some Spanish gold bars are fake. I cannot see the connection with our study. It appears to be somewhat of a fishing expedition.

I will release all my PNG material on the Ryan-Garland matter only upon written consent from the PNG. Such data will have to be personally picked up as I donot intend to pack and post such a large bundle of material.

Cordially,

Ronnie Carr

cc: Newman-Bergen-Smies

P.O. Box 1113
Tulare Calif 93274

AMERICAN NUMISMATIC ASSOCIATION

CERTIFICATION SERVICE

CHARLES R. HOSKINS
Director
P.O. Box 87, Ben Franklin Station
WASHINGTON, D.C. 20044

November 26, 1975

Mr. Eric P. Newman
6450 Cecil Avenue
St. Louis, MO 63105

Dear Eric:

This is a closeup of AMerica on the U.S.A.O.G. $20 we talked about. Both pieces show these and other characteristics:

1. raised die defect on coin (depression on die).
2. hand touch-up work to sharpen detail of letters.
3. depressed die defect on coin (raised part of die).

Items 1 and 3 are on both coins.

Item 2 touch-up marks are in different places on both coins.

Thank you for the help.

Sincerely,

Francis Fazzari
Assistant to the Director

(OVER)

1
2
5

December 16, 1973

Mr. Robert H. Johnson
President
Professional Numismatists Guild, Inc.
551 Kearny Street
San Francisco, CA 94108

Dear Mr. Johnson:

NNCDS has received the 1973 Mr. Peace Medal .999 fine 500 gold medals for authentication. Our research into these issues leads us back to the Valley of Peace Arbitration case.

We, therefore, request that the P.N.G. authorize the arbitrators to release such data as they may have regarding this case to NNCDS for research and authentication purposes.

Yesterday, when I received the December issue of The Numismatist, I noted that the Professional Numismatists Guild recently donated $2,000 to the ANA Certification Service. The gift is appreciated not only for the financial support, but also because it indicates that the P.N.G. membership and officers have faith in the future of NNCDS. We welcome your invaluable support.

Cordially,

Arthur Houghton

ahc: D. K. Weaver
Executive Secretary

ERIC P. NEWMAN NUMISMATIC EDUCATION SOCIETY

6450 Cecil Avenue, St. Louis 5, Missouri

January 23, 1976

Mr. Charles R. Hoskins
ANACS
Box 87
Ben Franklin Station
Washington, D. C. 20044

Dear Charles:

There has been loaned to me Lot 669 of the Abner Kreisberg auction of February 12, 1976, consisting of the Beck specimen of the 1853 U. S. Assay Office $20 gold piece in at least uncirculated brilliant condition. This is definitely genuine and, therefore, can be used for comparison with pieces now submitted for authentication. Its brilliantly bright surface may be proof condition. It contains 170 reeds on the edge and not 162 as the submitted pieces. It contains the extensive die break beginning over the first A and involving the first S in ASSAY, passing through the L of GOLD and between the first two numbers of the date.

On the obverse one serif on the E in AMERICA and one serif on the E in TWENTY is missing. The top serif on the I in UNITED is missing. This is true on all such pieces. As to Polaroids, I need macrophotos of the area.

I would like an enlarged photo of each side (you keep the negatives) centered by the F in CALIFORNIA, the area centered by the letters through the reverse die break passes, the area centered by the Y in ASSAY, the first 0 in 900 on the band, and the area centered by AM in AMERICA. Any other areas would be appreciated.

Will you please weigh the coin and also take its specific gravity. When it has served your purpose, would you mail it back by registered mail to Abner Kreisberg, 344 North Beverly Drive, Beverly Hills, California 90210.

If there is any further thought you have after seeing it, I will be glad to discuss it.

Very truly yours,

Eric P. Newman

EPN:jah
Encls.

REGISTERED-RETURN RECEIPT REQUESTED

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AMERICAN NUMISMATIC ASSOCIATION
CERTIFICATION SERVICE
CHARLES K. HOSKINS
Director
P.O. Box 87, Ben Franklin Station
WASHINGTON, D.C. 20044

February 10, 1976

Dear Eric,

The copy of Bob Johnson's letter concerning the release of Garland-Ryan arbitration records, which you requested, is enclosed.

Our interest in this matter is solely related to the authentication of the coins of the type involved in the arbitration. We have no desire to again bring up the conflicts and personalities of this past unfortunate episode.

Can you help us to obtain the data?

Cordially,

Chuck

Charles Hoskins

ERIC P. NEWMAN NUMISMATIC EDUCATION SOCIETY

6450 Cecil Avenue, St. Louis 5, Missouri

February 13, 1976

Mr. Herbert M. Bergen
Mr. Lester Merkin

Re: Garland vs. Ryan
Arbitration

Dear Herb and Les:

The American Numismatic Association Certification Service received for opinion two $20 1853 U.S. Assay Office gold coins. At our suggestion after seeing them we recommended that ANACS write PNG in order to obtain the information in the arbitration file. This was done and the PNG Board at a recent meeting in Florida agreed that such data should be turned over to ANACS if available. Doug Weaver, the PNG Executive Secretary was to track them down.

Robert F. Johnson, 353 Geary St., San Francisco, CA 94108, PNG President, wrote to ANACS on January 30, 1976 as follows:

> "Your request for the Garland-Ryan data was brought up at the PNG Board in Florida and it was agreed that such data should be turned over to ANACS if available. Accordingly Doug Weaver, our Executive Secretary, will try to track them down."

You may wish to confirm this at ANACS with Robert F. Johnson. I suggest that after such confirmation the one of you who has the most complete file turn over to ANACS, but you may wish to work it out in some other way. This will be a fine opportunity to put the file in the right place for proper use in authentication.

Charles Hoskins has authorized us to help obtain the data for ANACS. If I can be of further help, please let me know.

My kindest personal regards.

Sincerely,

Eric P. Newman

EPN:jeh
cc: Mr. Charles Hoskins

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ROBERT W. JOHNSON, INC.

[illegible]

[illegible]

[illegible]

July 5, 1978

Mr. Dennis Forgue
KarCoa
31 N. Clark Street
Chicago, IL 60602

Dear Dennis:

Your catalog of the Kaufman sale arrived and I want to compliment you on the color illustrations of the gold coins, even if they are black and white printed with a gold background.

You indicate that there are additional items to the Kaufman collection. I would like to know if lot #39 is one of the added items. Would you be nice enough to write me.

Sincerely,

Eric P. Newman

vg

7/28/78 1:30 PM

Dennis Fogue of Bonhams telephoned me from Chicago and told me that the proofing bar in the current auction was not from the Kaufman collection. I thanked him. I told him there were always problems about including certain lots and that I was sure he knew the opinions of others and myself about the piece

ZFN